

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIE JAMES MINCEY, JR., LINDA
A. MASON-MINCY,

Plaintiffs,

v.

BETTY M. PUIIA, BETTY M. COMEAU,
BETTY M. COMEAU, Trustee of the
Betty M. Comeau Trust Dated May 7,
2019, UNITED STATES, et al.,

Defendants.

No. 2:20-cv-0571 JAM DB PS

ORDER

Plaintiffs Willie James Mincey, Jr., and Linda A. Mason-Mincy, are proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). Plaintiffs commenced this action of March 16, 2020, by filing a complaint and paying the required filing fee. (ECF No. 1)

On May 20, 2020, plaintiffs filed a motion for summary judgment and noticed the motion for hearing before the undersigned on June 26, 2020. (ECF No. 11.) On June 3, 2020, defendants filed an ex parte application for an extension of time to respond to plaintiffs' filings. (ECF No. 12.) Therein, defendants explain that "the ongoing coronavirus public health emergency" has made unavailable documents held by the Federal Records Center establishing that plaintiffs'

1 action is “*res judicata* bar[red].[.]” (Defs.’ Ex. Parte. App. (ECF No. 12.) at 1-2.) Defendants
2 note that plaintiffs would not stipulate to an extension of time. (*Id.* at 2.) Nonetheless, good
3 cause appearing, defendants’ request will be granted.¹

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Defendants’ June 3, 2020 request for an extension of time (ECF No. 12) is granted;
- 6 2. Defendants shall file a response to plaintiffs’ complaint on or before July 17, 2020; and
- 7 3. The June 26, 2020, hearing of plaintiffs’ motion for summary judgment is continued to

8 **August 28, 2020.**

9 DATED: June 4, 2020

/s/ DEBORAH BARNES

UNITED STATES MAGISTRATE JUDGE

25 ¹ Plaintiffs are also advised that their motion for summary judgment may be premature. In this
26 regard, “[b]efore summary judgment may be entered against a party, that party must be afforded
27 both notice that the motion is pending and an adequate opportunity to respond. Implicit in the
28 ‘opportunity to respond’ is the requirement that sufficient time be afforded for discovery
necessary to develop ‘facts essential to justify (a party’s) opposition’ to the motion.” Portland
Retail Druggists Ass’n v. Kaiser Foundation Health Plan, 662 F.2d 641, 645 (9th Cir. 1981).